

LEGISLATIVE BILL 701

Approved by the Governor February 22, 2000

Introduced by Tyson, 19

AN ACT relating to recreational trails; to amend sections 37-1011 to 37-1014, Reissue Revised Statutes of Nebraska, and section 37-303, Revised Statutes Supplement, 1999; to change provisions relating to state recreational trails and division fence cost-share responsibilities and construction; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 37-303, Revised Statutes Supplement, 1999, is amended to read:

37-303. (1) With the consent of the Governor, the commission may by purchase, when funds on hand or appropriated therefor are sufficient, or by gift, devise, or otherwise acquire title in the name of the State of Nebraska to sites situated outside organized municipalities, except as provided in section 90-404, for additional state parks, hatcheries, recreation grounds, state recreational trails, wildlife management areas, captive wildlife facilities, and public shooting grounds and may enter into appropriate contracts with reference thereto, all within the limits of amounts that may be appropriated, contributed, or available. For these purposes, the commission may enter into appropriate contracts, leases, or lease-purchase agreements.

(2) The commission, with the consent of the Governor, may take, receive, and hold, either in the name of the state or in trust for the state, exempt from taxation, any grant or devise of lands and any gift or bequest of money or other personal property made in furtherance of the purposes contemplated by this section and shall have such funds or the proceeds of such property invested. Such invested funds shall be deposited, used, and expended under the direction of the commission.

(3) The commission may make a survey of all lands and areas in the state which are suitable for state parks, game refuges, or other similar purposes contemplated by this section and may locate and designate any or all of such lands or areas or parts thereof and take such action as may tend to preserve or conserve them. The commission shall publish such informational material as it deems necessary and may, at its discretion, charge appropriate fees therefor.

Sec. 2. Section 37-1011, Reissue Revised Statutes of Nebraska, is amended to read:

37-1011. If any portions of the right-of-way accepted under section 37-912 or 37-914 are not immediately developed as a state recreational trail or for habitat, the Game and Parks Commission shall use its best efforts to lease undeveloped portions of the right-of-way, with first priority to adjacent landowners, for the purposes stated in section 37-912 or 37-914 or for other purposes which are not inconsistent with the purposes of section 37-912 or 37-914 until such time as a state recreational trail or habitat may be developed. Any lease or use allowed shall be subject to all prescriptions of the National Trails System Act.

Sec. 3. Section 37-1012, Reissue Revised Statutes of Nebraska, is amended to read:

37-1012. (1) The Game and Parks Commission shall have the same responsibility with regard to division fences as a private landowner as provided in sections 34-101 to 34-117, except that in those areas where a state recreational trail is developed, the commission shall have the same responsibility as a railroad as provided in sections 74-601 to 74-604, but the type of fence required under section 74-601 shall not be required for those areas where a state recreational trail is developed. All fences shall be constructed and maintained as required under this subsection unless such construction and maintenance is waived in writing by affected adjoining landowners. The commission shall be responsible for the construction and replacement cost of any fence agreed to by the commission and adjoining landowner. The commission shall also be responsible for providing supplies for the maintenance of any fence along a state recreational trail or for the reimbursement to the adjoining landowner for the cost of supplies for the maintenance of any fence along a state recreational trail. The adjoining landowner shall be responsible for the maintenance of the fence. In such areas the type of fence may be (a) wire fence of at least four barbed wires, of a size not less than twelve and one-half gauge fencing wire, to be secured

to posts, the posts to be at no greater distance than one rod from each other, or (b) a fence of any type that is agreed to by the commission and adjoining landowners. All fences constructed under either subdivision (a) or (b) of this subsection shall be deemed to be manifestly designed to exclude intruders for the purposes of subdivision (1)(c) of section 28-521.

(2) The responsibility of the commission for fences along a state recreational trail shall not exceed the amount appropriated to the commission by the Legislature for such purpose during any biennium, except that the commission may use any funds specifically gifted or obtained by grant application to the commission the sole purpose of which is to provide fencing for a state recreational trail.

(3) The commission shall adopt and promulgate rules and regulations to carry out this section.

Sec. 4. Section 37-1013, Reissue Revised Statutes of Nebraska, is amended to read:

37-1013. If the right-of-way or any portion thereof is used as a state recreational trail pursuant to sections 37-912 and 37-1011, appropriate sanitary facilities shall be provided along the trail for the use of persons using the trail. Camping or open fires shall be prohibited on such right-of-way or portion thereof.

Sec. 5. Section 37-1014, Reissue Revised Statutes of Nebraska, is amended to read:

37-1014. If the right-of-way or portion thereof is used as a state recreational trail or for other purposes as provided in sections 37-912 and 37-1011, the Game and Parks Commission shall adopt and promulgate rules and regulations to carry out the purposes of sections 37-912 and 37-1010 to 37-1013.

Sec. 6. Original sections 37-1011 to 37-1014, Reissue Revised Statutes of Nebraska, and section 37-303, Revised Statutes Supplement, 1999, are repealed.